

DEC 26 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CLAUDIA VERONICA MORENO
LEDESMA; VIANEY PERALTA
MORENO,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-71115

Agency Nos. A096-063-469
A096-063-470

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 17, 2008^{**}

Before: GOODWIN, WALLACE, and TROTT, Circuit Judges.

Claudia Veronica Moreno Ledesma and her daughter, natives and citizens of
Mexico, petition for review of a Board of Immigration Appeals' ("BIA") order

^{*} This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

dismissing their appeal from an immigration judge's ("IJ") decision denying her application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). Our jurisdiction is governed by 8 U.S.C. § 1252. Reviewing for substantial evidence, *Abebe v. Gonzales*, 432 F.3d 1037, 1039-40 (9th Cir. 2005) (en banc), we deny the petition for review.

Where, as here, the BIA adopts the IJ's decision and cites *Matter of Burbano*, 20 I. & N. Dec. 872 (BIA 1994), we review the IJ's decision as if it were that of the BIA. *Id.* at 1040-41. For this reason, we deny Ledesma's due process contention that the BIA failed to articulate reasons for its denial of relief, and find unpersuasive the government's contention that we lack jurisdiction to consider petitioner's claims. *Id.* at 1041; *see also Arreguin-Moreno v. Mukasey*, 511 F.3d 1229, 1232 (9th Cir. 2008) ("When the BIA cites *Burbano*... all issues presented before the IJ are deemed to have been presented to the BIA.").

The IJ denied Ledesma's asylum application as time-barred. She does not challenge this finding in her opening brief.

Even if Ledesma's ex-partner targeted her on account of a protected ground, substantial evidence supports the IJ's denial of withholding of removal because she did not show that the government was either unable or unwilling to control her ex-partner. *See Castro-Perez v. Gonzales*, 409 F.3d 1069, 1071-72 (9th Cir. 2005)

(holding that there is no government persecution where a person suffers abuse by a private actor and does not report it to the police.).

Substantial evidence also supports the denial of CAT relief because Ledesma did not show it is more likely than not that she will be tortured by, or with the acquiescence of, the Mexican government. *See Silaya v. Mukasey*, 524 F.3d 1066, 1073 (9th Cir. 2008).

PETITION FOR REVIEW DENIED.